IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1432 OF 1993

Sampat Raj Dugar. .. Petitioner

Vs.

The Board of Trustees of the
Port of Bombay & Anr. .. Respondents

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None for the petitioner.

Shri Umesh Shetty i/b Mulla & Mulla & Craigie Blunt and Caroe for the respondents.

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CORAM : R.M.S.KHANDEPARKAR &
V.M.KANADE, JJ.

DATED : 16th AUGUST, 2005.

P.C.

1. None present for the petitioner. Shri Shetty, the learned Advocate is present for the respondents.

2. Heard. Perused the records. Considering the facts of the case and the issue involved in the matter and bearing in mind the decision of the Apex Court in **International Airports Authority of India and Others v. Grand Slam International and Others,** reported in (1995)3 SCC 151, the controversy sought to be raised in this petition is fully covered by the said decision of the Apex Court wherein it has been observed thus:-

> "From the above decisions of this Court it becomes clear that an authority created under a statute even if is the custodian of the imported goods because of the provisions of the Customs Act, 1961, would be entitled to

charge demurrages for the imported goods in its custody and make the importer or consignee liable for the same even for periods during which he/it was unable to clear the goods from the customs area, due to fault on the part of the Customs Authorities or of other authorities who might have issued detention certificates owning such fault.

Thus, the above decisions of this Court which uphold the power of Port Trusts created under Ports Act to levy and collect demurrage charges for goods they keep as custodians for Customs Department from the consignees notwithstanding the detention certificates issued by the Customs Department clearly support the view I have taken that the IAAI, an authority constituted under the International Airports Authority Act, 1971, when is entitled to collect charges for keeping custody of the imported goods by regulations made thereunder and according to its policy, the Collector of Customs or his delegatee could not direct the IAAI by issuance of a detention certificate to release the goods of the importer without collection

> of the charges liable to be paid in respect thereof, inasmuch as the Collector of Customs or his delegatee has not been empowered under the provisions of the Act or its Rules or its Regulations to direct release of the imported goods without collection of keeping charges, for the keeping of which by the IAAI, charges are to be paid under the Rules made under the International Airports Authority Act, 1971."

3. In view of the said decision, nothing survives in this petition, and the petition is therefore liable to be dismissed relying upon the said decision quoted above.

4. During the pendency of these proceedings, the respondents had preferred Special Leave Petition to the Apex Court wherein the interim order passed by this Court was modified to the extent that instead of bond, the petitioner was required to furnish bank guarantee in clearance of the goods as the goods were to be re-exported.

5. In view of the disposal of the present petition and disposal of the claim of the petitioner, needless to say that the respondents would be entitled

to encash the said bank guarantee. With these observations, the petition is dismissed. Rule is discharged with no order as to costs.

(R.M.S.KHANDEPARKAR, J)

(V.M.KANADE, J)